

BEFORE THE FEDERAL ELECTION COMMISSION

SECRETARIAT

In the Matter of)

2005 SEP 15 P 2:59

MUR 5536)
SPADEA FOR CONGRESS)CASE CLOSURE UNDER THE
ENFORCEMENT PRIORITY SYSTEM**SENSITIVE**

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System matters that are low-rated

and are deemed inappropriate for review by the Alternative Dispute Resolution

Office are forwarded to the Commission with a recommendation for dismissal. The

Commission has determined that pursuing low-rated matters compared to other higher rated

matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to

dismiss these cases.

The Office of General Counsel scored MUR 5536 as a low-rated matter. It should be

noted that the complainant did not include any copies of the campaign materials that were

alleged to have violated the Federal Election Campaign Act. The Office of General Counsel

requested a copy of the campaign materials at issue from the complainant, but the

complainant responded that he did not want to pursue the matter any further and did not have

possession of the materials. Thus, in reviewing the merits of MUR 5536 in furtherance of the

Commission's priorities and resources relative to other pending matters on the Enforcement

docket, the Office of General Counsel believes that the Commission should exercise its

prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

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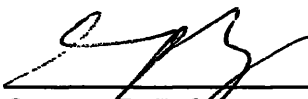
RECOMMENDATION

The Office of General Counsel recommends that the Commission dismiss MUR 5536, close the file effective two weeks from the date of the Commission vote, and approve the appropriate letters. Closing the case as of this date will allow CELA and General Law and Advice the necessary time to prepare the closing letters and the case file for the public record.

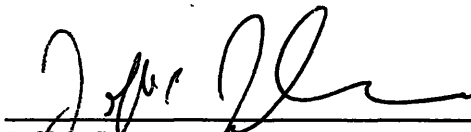
James A. Kahl
Deputy General Counsel

9/13/05
Date

BY:



Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration



Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

Attachment:
Narrative in MUR 5536

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5 **MUR 5536**
6

7 **Complainant:** David M. Del Vecchio of the
8 Hunterdon County Democratic Committee
9

10 **Respondents:** Josh Lignana, Treasurer &
11 Bill Spadea for Congress
12

13 **Allegations:** The complainant alleges that the Bill Spadea for Congress Committee,
14 distributed literature and materials during the 2003-2004 election cycle, which lacked the
15 appropriate "Paid for by" disclaimers. Specifically, the materials at issue include a
16 fundraising appeal mailed in the winter of 2003, a mailer distributed July 2004, and
17 certain lawn signs. The complainant notes that the respondents did affix appropriate
18 disclaimers to other campaign materials during the election cycle, but failed in the
19 instances referred to in the complaint.
20

21 **Office of General Counsel Notation:** The complainant did not include any copies of
22 the campaign materials in the complaint, which were alleged to have violated the Federal
23 Election Campaign Act. The Office of General Counsel contacted the complainant in
24 order to secure the materials and he responded that he did not want to pursue the matter
25 any further and could not provide the Commission with the materials referred to in the
26 complaint. The respondents filed a designation of counsel, but failed to respond to the
27 allegations in the complaint. The Office of General Counsel contacted the respondents'
28 attorney concerning the overdue response and was informed that he longer represented
29 them. Moreover, the respondents' phone lines were disconnected.
30

31 **Date complaint filed:** September 20, 2004

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